

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

Eden Rogers et al.,)
Plaintiffs,) Civil Action No. 6:19-cv-01567-TMC
v.)
United States Department of Health and)
Human Services, et al.,)
Defendants.)

Joint Status Report

Pursuant to the Court's orders dated October 27, 2020 (ECF No. 112) and December 1, 2020 (ECF No. 115), the parties submit the following joint status report concerning their efforts to resolve the discovery disputes raised in Plaintiffs' Motion to Compel Discovery (ECF No. 107). The parties previously submitted a joint status report on November 24, 2020 (*see* ECF No. 113), and today's report apprises the Court of the parties' subsequent efforts and continued progress in resolving the discovery disputes.

The parties have continued to communicate and work diligently to finalize and effectuate the agreement-in-principle described in the parties' prior joint status report. To that end, counsel have exchanged letters and emails and have reached agreement regarding what discovery responses will be deemed sufficient to resolve the disputes and permit the withdrawal of the pending Motion to Compel.

In accord with that agreement, Governor McMaster and Director Leach have each served or will serve supplemental responses to Plaintiffs' Interrogatories and Requests for Production. In addition, both have made supplemental document productions totaling several hundred pages. Both have served supplemental privilege logs. All that remains to complete the resolution of the dispute is Governor McMaster's completion of five additional electronic

searches proposed by Plaintiffs. The Governor, his counsel, his staff, and the State's IT staff have worked diligently over the past several weeks to conduct those searches. Progress has been slowed by the fact that the searches requested by Plaintiffs initially returned tens of thousands of non-responsive documents, and, as a result, have required the expenditure of considerable time to review and analyze the results and to determine and implement modifications to winnow out the false hits. Counsel for the Governor anticipates that completion of the collection, review, and production of additional responsive documents, if any, uncovered by these searches will require additional time. In light of the impending holidays, Governor McMaster anticipates the additional responsive documents, if any, will be produced on or before January 4, 2021. Plaintiffs note that they were apprised of the modifications to the search terms on Friday, December 18. While Plaintiffs do not object to the modifications at this point, Plaintiffs will have to review the produced documents before agreeing to the revised search terms.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/ Miles E. Coleman
Miles E. Coleman
Federal Bar No. 11594
E-Mail: miles.coleman@nelsonmullins.com
2 W. Washington Street, Fourth Floor
Greenville, SC 29601
(864) 373-2352

Jay T. Thompson
Federal Bar No. 09846
E-Mail: jay.thompson@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

OFFICE OF THE ATTORNEY GENERAL

Robert D. Cook
South Carolina Solicitor General
Federal Bar No. 285
E-Mail: bcook@scag.gov
Post Office Box 11549
Columbia, SC 29211
(803) 734-3970

December 21, 2020

Attorneys for Governor Henry McMaster

s/ Susan K. Dunn

Susan K. Dunn (Federal Bar No. 647)
AMERICAN CIVIL LIBERTIES UNION
OF SOUTH CAROLINA FOUNDATION
P.O. Box 20998
Charleston, SC 29413
(843) 282-7953
sdunn@aclusc.org

South Carolina Equality Coalition, Inc.
Nekki Shutt (Federal Bar No. 6530)
M. Malissa Burnette (Federal Bar No. 1616)
BURNETTE SHUTT & MCDANIEL, PA
912 Lady Street, 2nd floor
P.O. Box 1929
Columbia, SC 29202
(803) 850-0912
mburnette@burnettshutt.law
nshutt@burnettshutt.law

Peter T. Barbur (admitted *pro hac vice*)
CRAVATH, SWAINE & MOORE LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
(212) 474-1000
pbarbur@cravath.com

Leslie Cooper (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10004
(212) 549-2633
lcooper@aclu.org

Daniel Mach (admitted *pro hac vice*)
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION
915 15th Street NW
Washington, DC 20005
(202) 675-2330
dmach@aclu.org

M. Currey Cook (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
120 Wall Street, 19th Floor
New York, NY 10005
(212) 809-8585
ccook@lambdalegal.org
ccohen@lambdalegal.org

Karen L. Loewy (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
1776 K Street NW, 8th Floor
Washington, DC 20006-2304
(202) 804-6245
kloewy@lambdalegal.org

Attorneys for Plaintiffs

DAVIDSON, WREN & PLYLER P.A.

s/ Kenneth P. Woodington

KENNETH P. WOODINGTON, #4741

WILLIAM H. DAVIDSON, II, #425

1611 Devonshire Drive, 2nd Floor

Post Office Box 8568

Columbia, South Carolina 29202-8568

wdavidson@dml-law.com

kwoodington@dml-law.com

T: 803-806-8222

F: 803-806-8855

Attorneys for Defendant Michael Leach